

Order Approving Mineral County Service Package

ATTACHMENT H

(Notice of Lawsuit and Request for Waiver of Personal Service of
Notice In Lieu of Summons)

Order Approving Mineral County Service Package

**NOTICE OF LAWSUIT AND
REQUEST FOR WAIVER OF PERSONAL SERVICE OF
NOTICE IN LIEU OF SUMMONS**

You have been named as a Defendant in a civil action. A *Second Amended Complaint in Intervention* has been filed by Mineral County, Nevada in the United States District Court for the District of Nevada, Reno, Nevada, docket number 3:73-cv-00128-MMD-WGC, alleges that the State of Nevada and the Decree Court are obligated under the Public Trust Doctrine to modify the management of the Walker River system, including modifications to the rules and regulations governing the administration of the Walker River Decree, so as to ensure adequate average annual inflows to Walker Lake.

Rule 4 of the Federal Rules of Civil Procedure provides that under certain circumstances you can avoid being assessed the cost of being personally served if you sign a waiver and accept service by mail. The materials that have been sent to you in this package include a waiver form, instructions, and an addressed stamped envelope for returning the waiver form. Please read these materials carefully, as they are important to your legal rights.

Enclosed are the following SEVEN (7) documents:

1. **Waiver of Personal Service of Notice in Lieu of Summons:** Two copies of this document are enclosed, one for your records and one that you may send in the enclosed stamped and addressed envelope to Simeon Herskovits and Iris Thornton, the attorneys for Mineral County, if you choose to execute the document.

2. **Order Relating to Completion of Service and Schedule for Responses to Mineral County's Second Amended Complaint in Intervention** which contains information relating to your rights in this case;

3. **Second Amended Complaint in Intervention (Doc. No. 936);**

4. Forms for a Notice of Appearance and Intent to Participate, as follows:

a. **Notice of Appearance and Intent to Participate for Party Represented by Attorney;**

b. Notice of Appearance and Intent to Participate for Unrepresented Party Consenting to Electronic Service;

c. Notice of Appearance and Intent to Participate for Unrepresented Party Declaring Hardship Making Electronic Service Impossible;

5. Disclaimer of Interest in Water Rights and Notice of Related Information and Documentation Supporting Disclaimer form;

This is not a formal notification from the Court, but rather a request by counsel for Mineral County that you sign and return the enclosed **WAIVER OF PERSONAL SERVICE OF NOTICE IN LIEU OF SUMMONS** in order to save the cost of personally serving you with a *Judicial Notice in Lieu of Summons*, and additional copies of the *Second Amended Complaint in Intervention* and the related forms referenced above. If you do not send a signed copy of the Waiver to Mineral County within thirty (30) days after the date designated below as the date on which this Notice and request is sent, you may be responsible for the cost of personally serving you. We enclose an addressed stamped envelope for your use. An extra copy of the Waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the Court and no additional copies of the above-referenced documents will be served on you. The matter will then proceed as provided in paragraph 2 of the *Order Relating to Completion of Service and Schedule for Responses to Mineral County's Second Amended Complaint in Intervention*, which is included with this Notice.

If you return the signed **WAIVER OF PERSONAL SERVICE OF NOTICE IN LIEU OF SUMMONS**, a response to Mineral County's *Second Amended Complaint in Intervention*

1 shall be filed and served 90 days from the date on which you sign the **WAIVER OF PERSONAL**
2 **SERVICE OF NOTICE IN LIEU OF SUMMONS.**

3 Additionally, if you wish to participate in this case, you are required, within thirty (30)
4 days of your execution of the **WAIVER OF PERSONAL SERVICE OF NOTICE IN LIEU**
5 **OF SUMMONS** to file the particular form of the **NOTICE OF APPEARANCE AND INTENT**
6 **TO PARTICIPATE** which applies to your circumstances with the Court, which forms are
7 attached hereto.
8

9 No default will be taken against you for failure to appear, or for failure to respond to or
10 otherwise defend against the *Second Amended Complaint in Intervention*.

11 If you do not return the signed **WAIVER OF PERSONAL SERVICE OF NOTICE IN**
12 **LIEU OF SUMMONS** within the time indicated, Mineral County will take appropriate steps to
13 effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then,
14 to the extent authorized by those Rules, ask the Court to require you (or the party on whose behalf
15 you are addressed) to pay the full cost of such service. In that connection, please read the statement
16 concerning the duty of the parties to waive service of the Notice in Lieu of Summons which is
17 attached hereto.
18

19 I affirm that this request is being sent to you on behalf of the proposed Plaintiff-Intervenor,
20 Mineral County, Nevada, on this ____ day of _____, 2021.
21

22
23 _____
24 Simeon Herskovits
25 Iris Thornton
26 Advocates for Community and Environment
27 P.O. Box 1075
28 El Prado, New Mexico 87529
Attorneys for Mineral County

**DUTY TO AVOID UNNECESSARY COSTS OF SERVICE OF SUMMONS
AND OTHER DOCUMENTS**

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the documents as referenced in the notice with which you have been provided. A party located in the United States who, after being notified of this matter and asked by the proposed Plaintiff-Intervenor, Mineral County, Nevada, to waive service of the documents, fails to do so, will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the Second Amended Complaint-in-Intervention is unfounded, or that the matter has been brought in an improper place or in a Court that lacks jurisdiction over the subject matter thereof or over your person or property. A party who waives service of the documents retains all defenses and objections (except any relating to the service of these documents), and may later object to the jurisdiction of the Court or the place where the matter has been brought.

A party who waives service must enter an appearance pursuant to paragraph 3(b) of the Order Relating to Completion of Service if the party wishes to participate in this case, and if the party fails to do so, the party shall nevertheless be deemed to have notice of subsequent orders of the Court and filings of the parties with respect to the Second Amended Complaint in Intervention.